IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10833 OF 2004

V. K. S. Acharya..... .... Petitioner.

Versus

Union of India & Ors..... .. .. Respondents.

Mr. R. Ramamurthy for the Petitioner.

None for the Respondents.

CORAM : DALVEER BHANDARI, C. J. &

S. A. BOBDE, J.

DATED : FEBRUARY 7, 2005.

P.C. :

This petition is directed against the judgment passed by

the Central Administrative Tribunal, Mumbai Bench, Mumbai dated 14th September, 2004.

2. Admittedly, the petitioner was found guilty of charge No.2 that he was found by the respondent with excess amount of Rs.113/- at the counter at the time of checking. The relevant findings of the Tribunal are reproduced as under:

> "10. It is well settled that the domestic enquiry need not be conducted in accordance with technical requirements of a criminal trial. The standard of proof required for departmental proceedings is that of preponderance of probabilities and not a proof of beyond reasonable doubt. When in the instant case, the applicant himself is not at dispute about the evidence of excess cash of Rs.113/- in Railway Cash it was for him to explain that out of Rs.113/- Rs.100/- was his

private cash which he had declared and was reflected in DTC for which he failed. The enquiry Officer had considered all these factors and based his conclusion on the material available on record, considering the defence put forward by the applicant and came to the conclusion in a reasonable manner and held that the charge No.II is proved. The conclusion arrived at by the enquiry officer cannot be termed as perverse and not based on the material on record as there is evidence to support the conclusion of the enquiry officer. We have mentioned above that the cash memo proceedings which is relied on by the enquiry officer is a document which was prepared by the applicant himself at the time of checking in question. When the document in question was not challenged and when it was prepared by the

applicant himself no other prof is required to prove the same.

11. We have already observed that the cash memo proceeding do not reflect about the declaration or production of his private cash. We are not supposed to review the evidence arrived at our own independent findings. The enquiry officer is the sole judge of the fact as there is evidence to substantiate the findings. We are not inclined to accept the contention of the counsel for the applicant that this is a case of no evidence, the benefit of which can be given to the applicant. The misconduct proved against the applicant is of grave nature. The applicant was found with excess cash of Rs.113/- at the time of checking at the counter."

3. Though the petitioner was found guilty of this grave

charge, the punishment ultimately granted to the petitioner is only reduction in one grade. We do not find any infirmity with the same. It is a well reasoned order of the Central Administrative Tribunal. This petition being devoid of any merit is dismissed.

Sd/-

CHIEF JUSTICE

Sd/-

S. A. BOBDE, J.